



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 13, 2022

IN THE MATTER OF:

Appeal Board No. 623326 A

PRESENT: MICHAEL T. GREASON, MEMBER

In Appeal Board Nos. 623325A, 623326A and 623327A, the claimant applied to the Appeal Board pursuant to Labor Law § 534 for a reopening and reconsideration

of Appeal Board Nos. 619618, 619619 and 619620, filed March 8, 2022, which affirmed the decision of the Administrative Law Judge and sustained the initial determinations holding the claimant ineligible to receive benefits, effective March 16, 2020 to August 23, 2020, on the basis that the claimant was not totally unemployed; charging the claimant with an overpayment of \$8,400 in Federal Pandemic Unemployment Compensation (FPUC) repayable pursuant to § 2104 (f) (2) of the Coronavirus Aid, Relief, and Economic Security

(CARES) Act of 2020; charging the claimant with an overpayment of Lost Wages Assistance benefits of \$300 recoverable pursuant to 44 CFR Sec. 206.120 (f)(5); charging the claimant with an overpayment of \$2,183 in benefits recoverable pursuant to Labor Law § 597 (4) and reducing the claimant's right

to receive future benefits by 152 effective days and charging a civil penalty of \$1587.45 on the basis that the claimant made willful misrepresentations to obtain benefits.

Upon consideration of the application to reopen, after due notice to the parties, and the written statement submitted on behalf of the claimant the Board has decided to reopen and reconsider its decision.

Our review of the record reveals that the case should be remanded to hold a hearing. The claimant is Russian speaking, and it is unclear as to whether the

claimant was provided with a Russian language handbook, and/or help in Russian when she filed and certified for benefits. Additionally, the claimant indicated that she was unsure of the days when she worked for the employer and needed her paystubs to confirm the information provided by the Department.

The Commissioner of Labor is directed to be represented at the hearing. The parties shall be questioned as to the availability of Russian language materials for Russian speaking individuals and how the claimant would have been aware that such materials/aids were available. The claimant should be questioned as to whether she received a handbook or information from the Department of Labor in Russian. The claimant should produce her paystubs for the period from March 16, 2020, to August 23, 2020, to confirm the dates when she worked and the amount of money she earned for that period.

Now, based on all of the foregoing, it is

ORDERED, that Appeal Board Nos. 619618, 619619 and 619620 be rescinded, and it is further

ORDERED, that the decisions of the Administrative Law Judge be, and the same hereby are, rescinded; and it is further

ORDERED, that the combined cases shall be, and the same hereby are, remanded to the Hearing Section to hold a combined hearing on the issues herein, upon due notice to all parties and their representatives; and it is further

ORDERED, that the combined hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER